

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILLS NOS. 946, 1106, 952, & 1107

AN ACT

To repeal sections 21.795, 226.030, and
226.060, RSMo, and to enact in lieu thereof
four new sections relating to transportation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Sections 21.795, 226.030, and 226.060, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 21.795, 226.030, 226.060, and 238.208, to read as follows:

21.795. 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Transportation Oversight" to be composed of seven members of the standing transportation committees of both the senate and the house of representatives and three nonvoting ex officio members. Of the fourteen members to be appointed to the joint committee, the seven senate members of the joint committee shall be appointed by the president pro tem of the senate and minority leader of the senate and the seven house members shall be appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives. No

major party shall be represented by more than four members from the house of representatives nor more than four members from the senate. The ex officio members shall be the state auditor, the director of the oversight division of the committee on legislative research, and the commissioner of the office of administration or the designee of such auditor, director or commissioner. The joint committee shall be chaired jointly by both chairs of the senate and house transportation committees. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members, other than the ex officio members, shall be required for the determination of any matter within the committee's duties.

2. The transportation inspector general shall be appointed by majority vote of a group consisting of the speaker of the house of representatives, the minority floor leader of the house of representatives, the president pro tempore of the senate, and the minority floor leader of the senate. It shall be the duty of the inspector general to serve as the executive director of the joint committee on transportation oversight. The compensation of the inspector general and other personnel shall be paid from the joint contingent fund or jointly from the senate and house contingent funds until an appropriation is made therefor. No funds from highway user fees or other funds allocated for the operation of the department of transportation shall be used for the compensation of the inspector general and his or her staff.

The joint committee inspector general initially appointed pursuant to this section shall take office January 1, 2004, for a term ending June 30, 2005. Subsequent joint committee on transportation oversight directors shall be appointed for five-year terms, beginning July 1, 2005. Any joint committee on transportation oversight inspector general whose term is expiring shall be eligible for reappointment. The inspector general of the joint committee on transportation oversight shall:

(1) Be qualified by training or experience in transportation policy, management of transportation organizations, accounting, auditing, financial analysis, law, management analysis, or public administration;

(2) Report to and be under the general supervision of the joint committee. The joint committee on transportation oversight shall, by a majority vote, direct the inspector general to perform specific investigations, reviews, audits, or other studies of the state department of transportation, in which instance the director shall report the findings and recommendations directly to the joint committee on transportation oversight. All investigations, reviews, audits, or other studies performed by the director shall be conducted so that the general assembly can procure information to assist it in formulating transportation legislation and policy for this state;

(3) Receive and process citizen complaints relating to transportation issues. The inspector general shall, when

necessary, submit a written complaint report to the joint committee on transportation oversight and the highways and transportation commission. The complaint report shall contain the date, time, nature of the complaint, and any immediate facts and circumstances surrounding the initial report of the complaint. The inspector general shall investigate a citizen complaint if he or she is directed to do so by a majority of the joint committee on transportation oversight;

(4) Investigate complaints from current and former employees of the department of transportation if the inspector general receives information from an employee which shows:

- (a) The department is violating a law, rule, or regulation;
- (b) Gross mismanagement by department officers;
- (c) Waste of funds by the department;
- (d) That the department is engaging in activities which pose a danger to public health and safety;

(5) Maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before the inspector general except insofar as disclosures may be necessary to enable the inspector general to carry out duties and to support recommendations;

(6) Maintain records of all investigations conducted, including any record or document or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic transmissions, e-mail, or other paper or electronic documents,

records, reports, digital recordings, photographs, software programs and software, expense accounts, phone logs, diaries, travel logs, or other things, including originals or copies of any of the above. Records of investigations by the inspector general shall be an "investigative report" of law enforcement agency pursuant to the provisions of section 610.100, RSMo. As provided in such section, such records shall be a closed record until the investigation becomes inactive. If the inspector general refers a violation of law to the appropriate prosecuting attorney or the attorney general, such records shall be transmitted with the referral. If the inspector general finds no violation of law or determines not to refer the subject of the investigation to the appropriate prosecuting attorney or the attorney general regarding matters referred to the appropriate prosecuting attorney or the attorney general and the statute of limitations expires without any action being filed, the record shall remain closed. As provided in section 610.100, RSMo, any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of information in the records of the inspector general which would otherwise be closed pursuant to this section. Any disclosure of records by the inspector general in violation of this section shall be grounds for a suit brought by any individual, person, or corporation to recover damages, and upon award to the plaintiff reasonable attorney's fees.

3. The department of transportation shall submit a written report prior to November tenth of each year to the governor, lieutenant governor, and every member of the senate and house of representatives. The report shall be posted to the department's Internet website so that general assembly members may elect to access a copy of the report electronically. The written report shall contain the following:

(1) A comprehensive financial report of all funds for the preceding state fiscal year which shall include a report by independent certified public accountants, selected by the commissioner of the office of administration, attesting that the financial statements present fairly the financial position of the department in conformity with generally accepted government accounting principles. This report shall include amounts of:

(a) State revenues by sources, including all new state revenue derived from highway users which results from action of the general assembly or voter-approved measures taken after August 28, 2003, and projects funded in whole or in part from such new state revenue, and amounts of federal revenues by source;

(b) Any other revenues available to the department by source;

(c) Funds appropriated, the amount the department has budgeted and expended for the following: contracts, right-of-way purchases, preliminary and construction engineering, maintenance

operations and administration;

(d) Total state and federal revenue compared to the revenue estimate in the fifteen-year highway plan as adopted in 1992.

All expenditures made by, or on behalf of, the department for personal services including fringe benefits, all categories of expense and equipment, real estate purchases, and capital improvements shall be assigned to the categories listed in this subdivision in conformity with generally accepted government accounting principles. The report shall include information concerning the department's system of inventory of records relating to real property owned by the department and a description of all real estate transactions engaged in by the department for the preceding state fiscal year, including but not limited to the date of each transaction, the source of revenue used by the department for each transaction, and the allocation of any income produced by the real estate;

(2) A detailed explanation of the methods or criteria employed to select construction projects, including a listing of any new or reprioritized projects not mentioned in a previous report, and an explanation as to how the new or reprioritized projects meet the selection methods or criteria;

(3) The proposed allocation and expenditure of moneys and the proposed work plan for the current fiscal year, at least the next four years, and for any period of time expressed in any

public transportation plan approved by either the general assembly or by the voters of Missouri. This proposed allocation and expenditure of moneys shall include the amounts of proposed allocation and expenditure of moneys in each of the categories listed in subdivision (1) of this subsection;

(4) The amounts which were planned, estimated and expended for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation in the preceding state fiscal year and amounts which have been planned, estimated or expended by project for construction work in progress;

(5) The current status as to completion, by project, of the fifteen-year road and bridge program adopted in 1992. The first written report submitted pursuant to this section shall include the original cost estimate, updated estimate and final completed cost by project. Each written report submitted thereafter shall include the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project;

(6) The reasons for cost increases or decreases exceeding five million dollars or ten percent relative to cost estimates and final completed costs for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation completed in the preceding state fiscal year. Cost increases or decreases shall be determined by

comparing the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project. The reasons shall include the amounts resulting from inflation, departmentwide design changes, changes in project scope, federal mandates, or other factors;

(7) Specific recommendations for any statutory or regulatory changes necessary for the efficient and effective operation of the department;

(8) An accounting of the total amount of state, federal and earmarked federal highway funds expended in each district of the department of transportation; and

(9) Any further information specifically requested by the joint committee on transportation oversight.

4. Prior to December first of each year, the committee shall hold an annual meeting and call before its members, officials or employees of the state highways and transportation commission or department of transportation, as determined by the committee, for the sole purpose of receiving and examining the report required pursuant to subsection 3 of this section. The joint committee may also call before its members at the annual meeting, the inspector general of the joint committee on transportation oversight for purposes authorized in this section. The committee shall not have the power to modify projects or priorities of the state highways and transportation commission or

department of transportation. The committee may make recommendations to the state highways and transportation commission or the department of transportation. Disposition of those recommendations shall be reported by the commission or the department to the joint committee on transportation oversight.

5. In addition to the annual meeting required by subsection 4 of this section, the committee shall meet two times each year. The co-chairs of the committee shall establish an agenda for each meeting that may include, but not be limited to, the following items to be discussed with the committee members throughout the year during the scheduled meeting:

(1) Presentation of a prioritized plan for all modes of transportation;

(2) Discussion of department efficiencies and expenditure of cost-savings within the department;

(3) Presentation of a status report on department of transportation revenues and expenditures, including a detailed summary of projects funded by new state revenue as provided in paragraph (a) of subdivision (1) of subsection 3 of this section;

(4) Review of any report from the joint committee inspector general; and

(5) Implementation of any actions as may be deemed necessary by the committee as authorized by law.

The co-chairs of the committee may call special meetings of the

committee with ten days' notice to the members of the committee, the director of the department of transportation, and the department of transportation.

6. The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023, RSMo.

226.030. 1. The [state] highways and transportation commission shall consist of six members, who shall be appointed by the governor, by and with the advice and consent of the senate, not more than three thereof to be members of the same political party. Each commissioner shall be a taxpayer and resident of state for at least five years prior to his appointment. Any commissioner may be removed by the governor if fully satisfied of his inefficiency, neglect of duty, or misconduct in office. Commissioners appointed pursuant to this section shall be appointed for terms of six years, except as otherwise provided in this subsection. Upon the expiration of each of the foregoing terms of these commissioners a successor shall be appointed for a term of six years or until his successor is appointed and qualified which term of six years shall thereafter be the length of term of each member of the commission unless removed as above provided. The members of the commission shall receive as compensation for their services twenty-five dollars per day for the time spent in the performance of their

official duties, and also their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties. Members whose terms otherwise expire December 1, 2003, shall serve with terms expiring March 1, 2004, and new members or the members reappointed shall be appointed for terms expiring March 1, 2005; a member whose term otherwise expires December 1, 2005, shall serve with a term expiring March 1, 2007; a member whose term otherwise expires December 1, 2007, shall serve with a term expiring March 1, 2009; and one member whose term otherwise expires October 13, 2007, shall serve with a term expiring March 1, 2007; and one member whose term otherwise expires October 13, 2007, shall serve with a term expiring March 1, 2009. If a vacancy occurs in any term of a commissioner due to death, resignation, or removal, a successor shall be appointed for only the remainder of the unexpired term.

2. Beginning August 28, [2003, when two members of the state highways and transportation commission are within two years of expiration of their terms, the commission shall appoint one of those two members as chair of the commission and the other as vice chair, each to serve in such position for one year.] 2004, the two members of the commission, one each from opposing political parties, who have the most seniority in commission service shall serve as commission leadership with one member as chair and the other member as vice chair, respectively, for terms ending March 1, 2005. The commission shall elect one of the

members as chair and the other as vice chair. Effective March 1, 2005, the commission shall elect the two members of the commission, one from each opposing political party who has the most seniority in commission service, who shall serve as commission leadership with one member as chair and the other member as vice chair, respectively, for one year. At the end of such year, the member currently serving as chair shall then serve as vice chair, and the member currently serving as vice chair shall serve as chair, each to serve in such position for one year. Thereafter, commission leadership shall continue to rotate accordingly with the two members from opposing political parties who have the most seniority in terms of commission service being elected by the commission to serve as commission leadership. If one of the commission leadership offices becomes vacant due to death, resignation, or removal before the one-year leadership term expires, the commission shall elect one of its members that is of the same political party as the vacating officer to serve the remainder of the vacating officer's leadership term. Such election shall not prohibit that member from later serving as chair and vice chair when such member's seniority in commission service qualifies him or her for those offices as provided in this subsection. At the end of such year, the member currently serving as chair shall then serve as vice chair, and the member currently serving as vice chair shall serve as chair, each to serve in such position for one year.

3. No more than one-half of the members of the [state highways and transportation] commission shall be of the same political party. The selection and removal of all employees of the department of [highways and] transportation shall be without regard to political affiliation.

4. The present members of the [state highways and transportation] commission shall continue to serve as members of the [state highways and transportation] commission for the remainder of the terms for which they were appointed, except as provided in subsection 1 of this section.

5. The director of the department of transportation shall, by February fifteenth of each year, present an annual state of the state of transportation to a joint session of the general assembly. The six members of the [state highways and transportation] commission shall be present and available at such presentations for questions by members. The transportation inspector general may also be present and report to the general assembly on any matter of concern within his or her statutory authority. The provisions of this subsection shall expire August 28, 2008.

226.060. The [state highways and transportation commission] director of the department of transportation shall select and fix the salary of a chief counsel who shall possess the same qualifications as judges of the supreme court and who shall serve at the pleasure of the [commission] director and shall appear for

and represent the commission in all actions and proceedings under chapters 226 and 227, RSMo, or any other law administered by the commission, or in any decision, order or proceeding of the commission, or of the director and shall commence, prosecute or defend all actions or proceedings authorized or requested by the commission or to which the commission is a party and shall advise the commission or the director, when requested, in all matters in connection with the organization, powers and duties of the commission or the powers and duties of the director. The chief counsel shall, with the consent of the [commission] director, appoint such assistant attorneys as the [commission] director may deem necessary and their salaries shall be fixed by the [commission] director. The chief counsel's office [of the commission] shall be furnished offices in the department of transportation building.

238.208. The owners of property adjacent to a transportation district formed under the Missouri transportation development district act may petition the court by unanimous petition to add their property to the district. Any property added under this section shall be subject to all projects, taxes, and special assessments in effect as of the date of the court order adding the property to the district. The owners of the added property shall be allowed to vote at the next election scheduled for the district to fill vacancies on the board and on any other question submitted to them by the board under this

chapter. The owners of property added under this section shall
have one vote per acre in the same manner as provided in
subdivision (2) of subsection 2 of section 238.220.